

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TISHA BRICK and A.B.

Plaintiffs,

v.

No. 1:20-cv-00881-WJ-KK

ESTANCIA MUNICIPAL SCHOOL DISTRICT, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER
DENYING MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS**

THIS MATTER comes before the Court on Plaintiff Tisha Brick's ("Plaintiff") Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis, Doc. 68, filed April 26, 2021.

“In order to succeed on [a motion for leave to proceed on appeal without prepayment of costs or fees], an appellant must show a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.” *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “The Supreme Court has held that good faith is to be judged by an objective standard, for review of any issue ‘not frivolous.’” *Spearman v. Collins*, 500 Fed.Appx. 742, 743 (10th Cir. 2012) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). “An appeal is frivolous when the result is obvious, or the appellant’s arguments of error are wholly without merit.” *Id.*; see also *Thompson v. Gibson*, 289 F.3d 1218, 1222 (10th Cir. 2002) (“an appeal is frivolous if it lacks an arguable basis in either law or fact”).

Plaintiff has shown a financial inability to pay the required filing fees but has not shown the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal. Plaintiff states:

My issues on appeal are: the final judgement in this action and from all orders of this court entered with the exception of the below highlighted portions of the orders by Magistrate Judge Kirtan Khalsa granting 2 Motion to Proceed under 28 U.S.C. 1915; granting 4 Motion to file electronically (Entered: 09/01/2020) and by Magistrate Judge Kirtan Khalsa granting 8 Motion to Amend/Correct (Entered: 12/09/2020), beginning on the dates of 08/28/2020 and ending 04/22/2021.

Affidavit at 2. The Court concludes that Plaintiff's appeal is not taken in good faith and that her request for leave to appeal *in forma pauperis* must be denied because she has not identified "the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *DeBardleben*, 937 F.2d at 505.

IT IS ORDERED that Plaintiff Tisha Brick's Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis, Doc. 68, filed April 26, 2021, is **DENIED**.

THE COURT CERTIFIES that Plaintiff's appeal is not taken in good faith.


WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE